

Appl. No. 09/943,997  
Amdt. dated Jan. 23, 2004  
Reply to Office action of Oct. 23, 2003

Attorney Docket Number - NC 25844

**REMARKS / ARGUMENTS**

Claims 1-24 remain in this application, wherein claims 1-14, 18-21 and 24 are rejected; claims 15-17, 22 and 23 are objected to.

Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Henry, Jr. et al. (U.S. Pat. No. 5,603,084) in view of Gerszberg (U.S. Pat. No. 5,297,192).

The patent of Henry presents a method for remote programming of a cellular radiotelephone, col. 1 lines 30-32, col. 2 lines 26-29. Central to this remote programming step is the application of an initial identification number, col. 2 lines 16-19, whereby the cellular network processes the initial identification number to send a page, including a mobile identification number permitting programming of the radiotelephone, col. 2 lines 22-25. Sending the initial identification number to the cellular network involves establishing and then terminating a phone call from the radiotelephone, col. 2 lines 59-64. The requirements of Henry for remote programming are considerably more involved than the process claimed in the present invention.

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The system of applicants claim 1 is a data connection, distinct from the method of Henry involving establishing a communication session, terminating this session, and then initiating remote programming, col. 2 line 59 through col. 3 line 4. In Henry, the user must dial a designated activation number to start the request for remote scheduling, col. 7 lines 25-29, and col. 8 lines 50-53. Henry does not teach a system for data channel provisioning of a mobile phone. Claimed initial operational parameters initiation signal generator in communication with a data message service center is not found within the teachings of Henry. In addition, Henry does not teach the presence of the initial operational parameters request signal generator to request downloading of control parameters to the mobile station. In short, Henry teaches remote programming requiring service provider and mobile phone to use and recognize the initial identification number; whereas, the present invention streamlines the remote programming procedure by establishing network function to avoid such specialized requirements.

The patent of Gerszberg teaches remotely downloading of NAM parameters to a mobile telephone, col. 1 lines 22-26. Voice and data channels are established between a control center and the

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mobile telephone, data is sent from the control center over the voice channel to update control parameters in the mobile phone, col. 1 line 65 through col. 2 line 7, and col. 2 lines 27-35. A communication channel is established between the mobile phone and a service provider via an unblocked service channel, col. 3 lines 35-41. The transfer of NAM parameters is accomplished via modem to modem communication, as outlined in col. 3 line 60 to col. 4 line 7.

The alleged combination of Henry with Gerszberg would be problematic at best, as Henry must establish and terminate a voice call before establishing remote programming, while Gerszberg must maintain voice and data channels simultaneously to provide remote updates of NAM parameters. Assuming arguendo the combination is proper, each reference relies on establishment of a voice channel to achieve remote update, while the presently claimed invention eliminates this step, providing a more efficient method to provide initial operational parameters.

Neither Henry or Gerszberg, alone or in combination, teaches the network scenario outlined in applicants claim 1 and 14; rather, each reference involves solutions based on specialized function of the mobile phone, including multi connection sessions and the

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initial identification number for Henry, and simultaneous voice and data sessions for Gerszberg. There is simply no teaching of the claimed network limitations of applicants claims 1 and 14. Consequently, the rejection of claims 1 and 14 should be withdrawn.

In regard to claims 2 and 3, Henry discloses distinct message center 26 and activation center 27, col. 5 lines 3-11 and Fig. 1. Clearly, Henry teaches away from any SMS service center and initial operational parameters request signal generator being combined. This rejection should be withdrawn.

In regard to claim 4 and 5-12, neither reference discloses a data message request detector. Examiner's cited passage of col. 8 lines 9-24, and col. 9 line 25 through col. 10 line 13, merely discusses the SMS format and message pathway respectively. No discussion is present of the data message request detector. As claims 5-12 are dependent upon claim 4 these must also be distinguished from the rejection.

Claim 13 is dependent upon claim 1, as the cited references have been shown deficient in disclosing the limitations of claim 1 the limitations of claim 13 are also distinguished.

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In regard to claims 18 and 19, Henry does not teach a commit message for relevancy. Rather, Henry only discloses verification of successful or unsuccessful remote programming, col. 8 lines 39-47.

In regard to claims 20 and 21, Henry only discloses verification messages from the server, not messages of successful loading from both the server and the mobile station, col. 8 lines 39-47.

Claim 24 is dependent upon claim 14, as the cited references have been shown deficient in disclosing the limitations of claim 14 the limitations of claim 24 are also distinguished.

In regard to objection of claims 15-17, 22 and 23 as being allowable if rewritten in independent form, applicants gratefully acknowledge recognition of these claims but believe remaining claims are likewise distinguished from the art cited in the present office action.

Accordingly, present claims 1-24 are believed to be in allowable form having overcome all existing rejections and objections set forth within the office action of October 23, 2003. Therefore, the

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applicant respectfully requests allowance of all remaining claims  
and issuance of a notice of allowance.

Respectfully submitted,



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